

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS
LIABILITY LITIGATION

MDL No. 2419
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**JOINTLY PROPOSED AGENDA
FOR THE DECEMBER 4, 2014 STATUS CONFERENCE**

The Plaintiffs' Steering Committee, Official Creditors' Committee, and Trustee jointly propose the following agenda for the December 4, 2014 status conference. All defendants whose counsel filed notices of appearance in the MDL have been given an opportunity to comment on this proposed agenda.

A. Report to the Court.

1. Status of mediation efforts [Mediation Order, Dkt. 394]
2. Status of insurance declaratory actions:
 - a. *Certain Underwriters at Lloyd's, London v. Ameridose et al.*, 1:13-cv-12609-FDS; *Ironshore Specialty Ins. Co. v. Ameridose et al.*, 1:13-cv-13000-FDS
 - a. Status conference held November 24, 2014
 - b. Status conference scheduled for January 5, 2015, 2:00 PM
 - b. *Great American E&S Ins. Co. v. Liberty Industries, Inc.*, 3:14-cv-00499-VLB
 - a. Great American Motion for Summary Judgment filed November 7, 2014 [Great American Dkt. 22, 23, 25]
 - b. Order Granting Liberty Motion for Extension of Time to Respond to Summary Judgment until December 29, 2014 [Great American Dkt. 27]
3. Status of discovery
 - a. Order on PSC Motion for Clarification of MDL Order No. 9 Regarding Common Issue Discovery [Dkt. 1528]
 - b. PSC Motion to Compel St. Thomas Entities to Respond to Certain Interrogatories and Corrected Declaration of Benjamin A. Gastel [Dkts. 1549, 1550, 1551, 1555]

- a. Joint Stipulation for Extension for St. Thomas to Respond [Dkt. 1566]
- 4. Status of litigation track
 - a. Liberty motions for summary judgment [*Lambert* Dkt. 29, 30; MDL Dkt. 1471, 1472]
 - b. PSC Motion for Leave to File Amended Complaint Re UniFirst (forthcoming)
 - c. Forsyth Street Ambulatory request for removal from service list [Dkt. 1465]
 - d. Premier Defendants' Master Answer to Complaint [Dkt. 1541]
 - e. MDL Order No. 11: Standing Order Governing Certain Procedural Issues [Dkt. 1524]
- 5. Status of bankruptcy
- 6. Status of appeals
- 7. Schedule for future status conferences
 - a. January 14, 2015 at 11:30 AM EDT (M.J. Boal); 2:00 PM EDT (J. Zobel)
- 8. Filings by Darrell Cummings [Dkt. 1539, 1547]
- 9. PSC's letter requests to Judge Boal re Special Master role [Dkts. 1531, 1532]

B. Fully-briefed motions.

- 10. Discovery-related motions
 - a. PSC Motion to Compel Insurance Agreements [Dkts. 1468, 1469, 1470] (referred to Judge Boal)
- 11. PSC Motion for Entry of Case Management Order Regarding Virginia Matters [Dkt. 1188]
 - a. Insight's Opposition to Motion for Order [Dkt. 1256]
 - b. PSC Reply [Dkt. 1289]
 - c. PSC Supplemental Memorandum [Dkt. 1311]
 - d. PSC Exhibit [Dkt. 1318]
- 12. Motions for extension of time / briefing schedules
 - a. Box Hill Surgery Assented-To Motion for Extension of Time to Respond to Complaint [Dkt. 1542]
 - b. Fullerton Orthopaedic Defendants' Stipulation on Extension to Respond to Complaint and Stay Discovery [Dkt. 1554]

13. Motion for Summary Judgment by Hahnemann University Hospital, Pain Care Professionals-Pain Center at Hahnemann, Tenet Healthsystem Hahnemann, LLC (1:14-cv-10434-RWZ) [*King* Dkt. 16]
 - a. Plaintiff's Response in Opposition to Motion For Summary Judgment [*King* Dkt. 21]
 - b. Letter/request (non-motion) from Plaintiff Norma King for extension of time to secure new counsel [*King* Dkt. 26]
 - c. Electronic Order granting continuance until November 12, 2014 [*King* Dkt. 27]
14. Encino Outpatient Surgery Center, Inc. Motion to Dismiss for Lack of Jurisdiction and Insufficient Service of Process (1:14-cv-12884) [*Luna-Wynstock* Dkt. 22]
 - a. Plaintiffs' Opposition [*Luna-Wynstock* Dkt. 30]
 - b. Encino Reply [*Luna-Wynstock* Dkt. 33]
15. Glaser Motion to Dismiss [*Luna-Wynstock* Dkts. 27, 28, 29]
 - a. Plaintiffs' Opposition [*Luna-Wynstock* Dkt. 34]
 - b. Glaser Reply [*Luna-Wynstock* Dkt. 36]
 - c. Plaintiffs' Sur-Reply [*Luna-Wynstock* Dkt. 37]
16. Liberty's Motion for Summary Judgment [*Lambert* Dkt. No. 29, 30]; Liberty's Motion for Summary Judgment [MDL Dkt. 1471, 1472]; Liberty's Motion to Seal Documents Filed in Support of Summary Judgment [Dkt. 1401]; and Liberty's Second Motion to Seal Documents Filed in Support of Summary Judgment [Dkt. 1473]
 - a. PSC Response to Liberty's Motion for Summary Judgment and motions to seal [Dkts. 1518, 1518]
 - b. Liberty Reply to PSC's Response to Summary Judgment and motions to seal [Dkt. 1544]
 - c. Saint Thomas Entities' Motion for Clarification Regarding Liberty's Summary Judgment Briefing [Dkt. 1567]
 - d. Liberty's Response to Saint Thomas Entities' Motion for Clarification Regarding Liberty's Summary Judgment Briefing [Dkt. 1570]
17. Ascension Parties' Motion to Certify Dismissal Pursuant to F.R.C.P. 54(b) [Dkts. 1521, 1522]
 - a. PSC's Opposition to Ascension's Motion for Fed. R. Civ. P. 54(b) Certification [Dkt. 1568]

C. Briefing in progress.

18. Insight's Motion to Strike Eighteen State Court Orders as Void ab initio [Dkt. 1284, 1285]
 - a. Roanoke Gentry Locke Plaintiffs' opposition [Dkt. 1326]
19. Dispositive Motions:
 - a. Cincinnati Pain Management Consultants Motion to Dismiss [Dkt. 1013, 1014]
 - a. Plaintiffs' Opposition [Dkt. 1493]
 - b. UniFirst Motion to Dismiss [Dkt. 1050, 1051, 1052]
 - a. PSC Motion for Leave to File Amended Complaint Re UniFirst (forthcoming)
 - c. Image Guided Pain Managements Motion for Judgment on the Pleadings [Dkts. 1361-1391]
20. Insight Health Corp.'s Motion for Reconsideration and Leave to Amend Responses to Request for Admission and to Supplement Motion for Reconsideration of Partial Summary Judgment [Dkt. 1281 and 1282]
 - a. Roanoke Gentry Locke Plaintiffs' Opposition to Motion for Reconsideration [Dkt. 1327]

Dated: December 3, 2014

Respectfully submitted,

Paul D. Moore
DUANE MORRIS LLP
100 High Street, Suite 2400
Boston, MA 02110-1724
(857) 488-4230
pdmoore@duanemorris.com

*Chapter 11 Trustee for the Estate of New England
Compounding Pharmacy, Inc.*

/s/ Kristen A. Johnson
Thomas M. Sobol, BBO # 471770
Kristen A. Johnson, BBO# 667261
HAGENS BERMAN SOBOL
SHAPIRO LLP
55 Cambridge Parkway, Suite 301
Cambridge, MA 02142
(617) 482-3700
tom@hbsslaw.com
kristenj@hbsslaw.com

Plaintiffs' Lead Counsel

William R. Baldiga
Kiersten A. Taylor
BROWN RUDNICK LLP
One Financial Center
Boston, Massachusetts 02111
(617) 856-8200
wbaldiga@brownrudnick.com
ktaylor@brownrudnick.com

David J. Molton
BROWN RUDNICK LLP
Seven Times Square
New York, New York 10036
(212) 209-4800
dmolton@brownrudnick.com

*Counsel for the Official Committee of Unsecured
Creditors*

CERTIFICATE OF SERVICE

I, Kristen A. Johnson, hereby certify that I caused a copy of the above Jointly Proposed Agenda for the December 4, 2014 Status Conference to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: December 3, 2014

/s/ **Kristen A. Johnson**
Kristen A. Johnson, BBO # 667261